

REMARKS

The applicants have amended the claims and are believed to be allowable.

In the Office Action dated October 2, 2003, the Examiner rejected claims 3-6, and 11-12 under 35 U.S.C. section 103(a) as being unpatentable over Patel and RFC 2104. The Examiner also rejected claim 15 under 35 U.S.C. section 103(a) as being unpatentable over Patel. The applicants respectfully request the removal of any rejections based on Patel under 35 U.S.C. section 103(a). 35 U.S.C. section 103(c) (1999)(LEXIS) was amended to read:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Patel is prior art under 35 U.S.C. section 102(e), and the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. 37 CFR 1.104(a)(5) specifies the nature of the showing necessary before the Examiner considers co-pending applications to be owned by, or subject to an obligation of assignment to, the same person for purposes of 35 U.S.C. section 103(c). The necessary showing should be considered by the Examiner to be present if the application files refer to assignments which are recorded in the Patent and Trademark office in accordance with 37 C.F.R. Part 3 as long as the assignments conveyed the entire rights to the same person or organization. In the present case, both Patel and the present application are assigned to Lucent Technologies.

In view of the above, applicants respectfully request reconsideration and allowance. In the event of any fees inadvertently omitted or any improper payment of fees, the Commissioner is hereby authorized to charge or credit Lucent Technologies Deposit Account No.12-2325 to correct the error now or during the pendency of this application, except for the issue fee.

If the Examiner has any questions or feels that a telephone conversation would be helpful, please contact Julio Garceran at (973) 386-2286.

Respectfully submitted,
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Lucent Technologies Inc.

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Attachment

6 Sheets Replacement Formal Drawings